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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF

**DECLARATION OF MATTHEW D.
CANNON IN SUPPORT OF CISCO'S
OPPOSITION TO ARISTA'S MOTION
TO COMPEL INTERROGATORY
RESPONSES**

Date: September 29, 2015
Time: 1:30 P.M.
Dept.: Courtroom 5

DEMAND FOR JURY TRIAL

DECLARATION OF MATTHEW D. CANNON

I, Matthew D. Cannon, declare as follows:

1. I am an attorney licensed to practice in the State of California and am admitted to practice before this Court. I am an associate with the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of the matters set forth in this Declaration, and if called as a witness I would testify competently to those matters.

2. Attached as Exhibit 1 is a true and correct copy of Cisco’s First Supplemental Objections and Responses to Arista’s Second Set of Interrogatories, served September 28, 2015.

3. Attached as Exhibit 2 is a true and correct copy of excerpts from a transcript of public proceedings *In the Matter of Certain Network Devices, Related Software and Components Thereof (I)*, U.S.I.T.C. Inv. No. 337-TA-944.

4. Attached as Exhibit 3 is a true and correct copy of an article from *Network World* entitled “How Arista Networks got out in front of the SDN craze: Arista CEO Jayshree Ullal says ‘cloud networking leader’ complements Cisco” and dated February 22, 2013. This article was produced by Cisco in this case and bears Bates numbers CSI-ANI-00381280-83.

5. Attached as Exhibit 4 is a true and correct copy of an e-mail from James Lingard to eng@arastra.com, dated April 14, 2006. Exhibit 4, which bears Bates numbers ANI-ITC-944_945-1713891-92, has been excerpted from a document produced by Arista that bears Bates numbers ANI-ITC-944_945-173831-6142. That document was designated by Arista in U.S.I.T.C. Inv. Nos. 337-TA-944 and 337-TA-945 as containing “CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER.” Pursuant to the Protective Order (Dkt. 53 at 6), this document is deemed to have been designated by Arista in this case as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information.

6. Attached as Exhibit 5 is a true and correct copy of an email chain involving Adam Sweeney and Kenneth Duda, dated July 9-12, 2010. Exhibit 5 bears Bates numbers ANI-ITC-944_945-3599339-40. That document was designated by Arista in U.S.I.T.C. Inv. Nos. 337-TA-944 and 337-TA-945 as containing “CONFIDENTIAL BUSINESS INFORMATION – SUBJECT

1 TO PROTECTIVE ORDER.” Pursuant to the Protective Order (Dkt. 53 at 6), this document is
2 deemed to have been designated by Arista in this case as “HIGHLY CONFIDENTIAL –
3 ATTORNEYS’ EYES ONLY” information.

4 7. Attached as Exhibit 6 is a true and correct copy of an email chain involving, *inter*
5 *alia*, Jayshree Ullal, Anshu Sadana, Mark Foss, Andreas Bechtolsheim, and Adam Sweeney, dated
6 July 17-21, 2009. Exhibit 6 bears Bates numbers ANI-ITC-944_945-3453648-50. That document
7 was designated by Arista in U.S.I.T.C. Inv. Nos. 337-TA-944 and 337-TA-945 as containing
8 “CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER.”
9 Pursuant to the Protective Order (Dkt. 53 at 6), this document is deemed to have been designated
10 by Arista in this case as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
11 information.

12 8. Attached as Exhibit 7 is a true and correct copy of a blog posting by Arista CTO
13 Kenneth Duda entitled “Linux as a Switch Operating System: Five Lessons Learned,” dated
14 November 5, 2013 and available at [https://eos.arista.com/linux-as-a-switch-operating-system-five-](https://eos.arista.com/linux-as-a-switch-operating-system-five-lessons-learned/)
15 [lessons-learned/](https://eos.arista.com/linux-as-a-switch-operating-system-five-lessons-learned/). This article was produced by Cisco in this case and bears Bates number CSI-
16 ANI-00216956.

17 9. Attached as Exhibit 8 is a true and correct copy of the transcript of Arista’s
18 presentation at the Barclays Global Tech Conference on December 9, 2014. This document was
19 produced by Cisco in this case and bears Bates numbers CSI-CLI-00357842 – CSI-CLI-00357855.

20 10. Attached as Exhibit 9 is a true and correct copy of excerpts from Arista’s Second
21 Supplemental Responses to Cisco’s First Set of Interrogatories, served September 18, 2015. This
22 document has been designated by Arista as containing “CONFIDENTIAL INFORMATION,”
23 although the portions contained herein were not so designated.

24 11. Arista served Interrogatory No. 2 on April 10, 2015, which asks Cisco to
25 “[i]dentify with specificity every similarity that Cisco contends is a basis for its claim of copyright
26 infringement, including the source material in Cisco’s copyrighted work(s) that Cisco contends is
27 the source of the similarity; the material in the allegedly infringing work(s) that Cisco contends
28 reflects the similarity, and why Cisco contends that the source material is protected by copyright.”

1 Cisco served objections and responses to this interrogatory on May 14, August 7, and September
2 1. Combined, Cisco's responses provide eight pages of narrative explanation and citations to
3 supporting documents, as well as 354 pages of supporting charts containing more specific details.

4 12. On March 26, 2015, Cisco served its Interrogatory No. 9, which asks Arista to
5 "[d]escribe in detail the development history for every version of the Accused Products, including
6 the identity of all Persons involved in the creation, development, or maintenance of the Accused
7 Products."

8 13. Cisco's response to Arista's Interrogatory No. 5 identified certain documents by
9 Bates number. *See* Dkt. 67 at Exhibit F, p. 15 (identifying documents at CSI-CLI-00358160 –
10 CSI-CLI-00359262). These documents include documents describing the earliest versions of the
11 software that eventually became known as IOS, as well as several versions of a confidential Cisco
12 document called the "Parser Police Manifesto" that describes design principles for Cisco's IOS
13 CLI.

14 14. Attached as Exhibit 10 is a true and correct copy of excerpts from a document
15 entitled "Cisco IOS IPv6 Command Reference," which was produced by Cisco in this case and
16 bears Bates numbers CSI-CLI-00292982-4561.

17 15. Attached as Exhibit 11 is a true and correct copy of a letter from Katherine M.
18 Lloyd-Lovett of Kecker & Van Nest, counsel for Arista, to me, dated September 3, 2015.

19 16. I participated in a telephone conference with counsel for Arista on September 15,
20 2015. During this conference, Cisco offered to explain the burdensome nature of Arista's
21 Interrogatory No. 16, on which the parties had not yet conferred. Arista's counsel indicated that
22 Arista was "not interested" in discussing the burdens of its interrogatories. Arista also stated that
23 unless Cisco agreed to provide every piece of information requested by Arista's interrogatory by
24 September 18, Arista was going to move to compel on an expedited schedule. Cisco stated that it
25 would explain the scope of its proposed supplementation by the end of that week. Arista filed its
26 motion to compel on Thursday of that week, before Cisco could send its proposal.

27 17. Attached as Exhibit 12 is a true and correct copy of a letter from me to Katherine
28 M. Lloyd-Lovett of Kecker & Van Nest, counsel for Arista, dated September 21, 2015.

18. Attached as Exhibit 13 is a true and correct copy of a letter from Elizabeth K. McCloskey of Keker & Van Nest, counsel for Arista, to me, dated September 22, 2015.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed in San Francisco, California, on September 28, 2015.

/s/ *Matthew D. Cannon*

Matthew D. Cannon (Bar No. 252666)

SIGNATURE ATTESTATION

Pursuant to Civ. L.R. 5-1(i)(3), the undersigned hereby attests under penalty of perjury that concurrence in the filing of this document has been obtained from the signatory indicated by the “conformed” signature (/s/) of registered ECF User Matthew D. Cannon (Bar No. 252666).

/s/ John M. Neukom
John M. Neukom (Bar No. 275887)